

FEDERAL ELECTION COMMISSION
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Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 6734

DATE COMPLAINT FILED: May 8, 2013

DATE OF NOTIFICATIONS: May 14, 2013

LAST RESPONSE RECEIVED: April 8, 2014

DATE ACTIVATED: March 10, 2014

EXPIRATION OF SOL: January 1, 2016 (earliest)/
December 31, 2017 (latest)

ELECTION CYCLE: 2012

COMPLAINANTS:

Citizens for Responsibility and Ethics in
Washington and Melanie Sloan
Campaign Legal Center and Paul S. Ryan

RESPONDENTS:

John Canning	Vincent Mai
Jeffrey Hurt	Prem Reddy
Donald Simms	Robert Beal
Susan Simms	Richard Uihlein
David Wallace	Philip Geier
Robert Reynolds	L. Scott Frantz
David Boies	John Cooney
Thomas Cushman	Elizabeth Wiskemann
Joe Murphy	Edward Donaghy
Thomas Fay	Michael Keiser
Thomas Girardi	John Roeser
Amy Goldman	Josephine Freede
John Harris	Don Scifres
David Herro	Timothy Travis
Carl A. Davis	William Smithburg
Kurt Wheeler	Alan Sieroty

1 **RELEVANT STATUTES** 2 U.S.C. § 441a(a)(3)(A), (B)
2 **AND REGULATIONS:** 11 C.F.R. § 110.5(b)(1)(i), (ii)
3
4 **INTERNAL REPORTS CHECKED:** Disclosure Reports
5
6 **FEDERAL AGENCIES CHECKED:** None
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8 **I. INTRODUCTION**

9 John O. Roeser and his wife, Jeannine J. Roeser, filed a *sua sponte* submission disclosing
10 that, during the 2012 election cycle, they exceeded the aggregate biennial limit for contributions
11 to candidate committees by \$24,800 and \$6,300, respectively, and that John O. Roeser exceeded
12 the aggregate biennial limit for contributions to PACs/national party committees by \$22,000.
13 See 2 U.S.C. § 441a(a)(3)(A), (B) and 11 C.F.R. § 110.5(b)(1)(i), (ii). See also 76 Fed. Reg.
14 8368 (2011) (setting forth applicable 2012 election cycle limits).

15 Further, Citizens for Responsibility and Ethics in Washington and Melanie Sloan and the
16 Campaign Legal Center and Paul S. Ryan filed a complaint alleging that 32 individuals,
17 including John Roeser, violated 2 U.S.C. § 441a(a)(3)(A) and 11 C.F.R. § 110.5(b)(1)(i) by
18 exceeding the aggregate biennial limit for contributions to candidate committees during the 2012
19 election cycle.

20 Each of the 32 respondents filed responses to the complaint.

21 Many respondents requested that the
22 Commission wait to decide the complaint, noting the then-pending Supreme Court case, *FEC v.*
23 *McCutcheon* (“*McCutcheon*”).

24 In light of the Supreme Court’s April 2, 2014, decision in *McCutcheon*, we recommend
25 that the Commission dismiss the complaint in MUR
26 6734.

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 The Act and Commission regulations set biennial limits on the aggregate amount that an
3 individual may contribute to all authorized candidate committees and to all federal political
4 action committees or political party committees during each two-year period beginning on
5 January 1 of an odd-numbered year and ending on December 31 of the next even-numbered year.
6 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5(b)(1).

7 On April 2, 2014, the Supreme Court invalidated 2 U.S.C. § 441a(a)(3), holding that the
8 aggregate biennial contribution limits do not further the government's interest in preventing
9 actual or apparent *quid pro quo* corruption. *McCutcheon*, 134 S. Ct. 1434 (2014). Accordingly,
10 we recommend that the Commission dismiss the
11 complaint in MUR 6734. *See, e.g.*, MUR 5978 (Kirk for Congress) (Commission dismissed
12 complaint after "Millionaire's Amendment" ruled unconstitutional); MUR 5994 (Chris Hackett
13 for Congress) (same); MUR 5979 (Oberweis for Congress) (same)..

14 **III. RECOMMENDATIONS**

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23 **MUR 6734**

- 24 1. Dismiss the complaint as to John Canning, Jeffrey Hurt, Donald Simms, Susan
25 Simms, David Wallace, Robert Reynolds, David Boies, Thomas Cushman, Joe
26 Murphy, Thomas Fay, Thomas Girardi, Amy Goldman, John Harris, David Herro,
27 Carl A. Davis, Kurt Wheeler, Vincent Mai, Prem Reddy, Robert Beal, Richard
28 Uihlein, Philip Geier, L. Scott Frantz, John Cooney, Elizabeth Wiskemann,
29 Edward Donaghy, Michael Keiser, John Roeser, Josephine Freede, Don Scifres,
30 Timothy Travis, William Smithburg, and Alan Sieroty.
31

2. Approve the attached Factual and Legal Analysis.
3. Approve the appropriate letters.
4. Close the file.

6-23-14
Date

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